

[illegible]

The subject property of this appeal is a small (less than ¼ acre) tract of land improved with a church building and situated at 306 South Parkway East.

As the party seeking to change the State Board designee's determination of revocation of exemption, the appellant has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(2).

Article II, section 28 of the Tennessee Constitution permits, but does not require, the legislature to exempt from taxation property which is "held and used for purposes purely religious, charitable, scientific, literary, or educational." Tenn. Code Ann. §67-5-212(a)(1) provides that:

There shall be exempt from property taxation the real and personal property, or any part of the real or personal property, **owned by any religious**, charitable, scientific or nonprofit educational institution that is occupied and actually used by such institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the property, or any part of the property, owned by an exempt institution that is occupied and actually used by another exempt institution for one (1) or more of the exempt purposes for which it was created or exists under an arrangement in which the owning institution receives no more rent than a reasonably allocated share of the cost of use, excluding the cost of capital improvements, debt service, depreciation and interest, as determined by the board of equalization. (Emphasis added)

The record in this matter makes it clear that the State Board made numerous attempts to contact South Parkway after the Shelby County Assessor's Office wrote on December 8, 2011, requesting a Review of Exempt Status. After some limited communication between the parties, the State Board found cause for revocation.

In his letter finding cause for revocation, Mr. Jones said:

Based on the circumstances reported by the assessor and confirmed in your response, it appears the above property previously approved for exemption is in an indefinite state of disuse and dilapidation not likely to be reversed, and therefore I find probable cause exists to revoke property tax exempt status effective January 1, 2014.

Regrettably, the evidence offered at the hearing only confirmed what Mr. Jones had found. Photographic evidence offered by the Assessor indicates that the church is in disrepair and badly in need of maintenance before services could be held. Although Ms. Willett testified that she believed some services were occurring at the location, she conceded that she is not a member of the church and has not attended services there in many years.

Additionally, Ms. Willett testified that she owned the property.<sup>1</sup> As noted in the statute above, property is only eligible for tax exemption if it is owned by the religious institution. At the hearing, there seemed to be some confusion as to what party actually held title to the property. In any event, nothing was offered into evidence that would establish the church as the owner of the property.

The lack of evidence from the appellant concerning the use of the property, the confusion over the ownership of the property and the photographic evidence submitted by the Assessor detailing the nature of the building require the administrative judge to affirm the decision of the Executive Secretary of the State Board.

#### Order

It is, therefore, ORDERED that the exemption for the subject property is revoked effective January 1, 2014.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of

---


<sup>1</sup> Ms. Willett's stepfather, Pastor James Witherspoon had been the Pastor of the church. Pastor Witherspoon passed away in May of 2006.

the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

**The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.**

Entered this 18<sup>th</sup> day of February 2015.

  
\_\_\_\_\_  
Brook Thompson, Administrative Judge  
Tennessee Department of State  
Administrative Procedures Division  
William R. Snodgrass, TN Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, Tennessee 37243

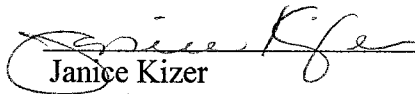
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Linda Willett  
South Parkway East  
Church of God in Christ  
4164 South Germantown Road  
Memphis, Tennessee 38125

Cheyenne Johnson  
Shelby Co. Assessor of Property  
1075 Mullins Station Road  
Memphis, Tennessee 38134

This the 18<sup>th</sup> day of February 2015.

  
\_\_\_\_\_  
Janice Kizer  
Department of State  
Administrative Procedures Division